

S/N 09/631,000

PATENTREMARKSRECEIVED  
CENTRAL FAX CENTER

MAY 16 2007

No claims were amended, claim 32 was added, and claims 1-31 are currently pending. Claims 21, 22, and 25 were withdrawn from consideration. In light of the following remarks, the applicant requests withdrawal of the pending rejections and advancement of this application to allowance.

**A. New Claim 31**

The applicant added claim 32 which sets forth specific types of operational pump parameters as suggested by the examiner. Support for the new claims can be found in the specification at page 4, line 20-page 5, line 2. The applicant thanks the examiner for his suggestion.

**B. Claims 1-3 and 6**

Claims 1-3 and 6 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) and in further view of Ertel (U.S. Patent 5,307,262). The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

Claim 1 (and dependent claims 2, 3 and 6) sets forth batch-down loading the plurality of data items into memory within the pump, and controlling operation of the pump based on one or more of the data items.

The office action admits that "Peterson in view of Eggers does not teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data items." It then cited passages from Ertel for the proposition that "batch downloading data is well known in the medical equipment industry."

However, Ertel does not teach or suggest batch downloading in the medical equipment industry, and in fact, it is not at all related to medical equipment. Rather, it is directed to computerized methods and systems for reviewing the accuracy, completeness, and overall quality of patient data required for hospital payment claims such as for Medicare and other insurers. See, e.g., col. 1, ll. 6-16 and col. 5, ll. 40-58. The teaching is directed to downloading patient data for analysis of insurance payments. It does not

S/N 09/631,000

PATENT

teach or suggest downloading operation parameters to medical devices, nor does it teach downloading pump parameters for controlling operation of a medical pump.

Therefore, the applicant respectfully submits that no combination of the cited references would result in batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data items. Even if they did, for the sake or argument and without admission, Ertel is directed to analyzing the quality of hospital claims data for insurance purposes—not medical devices. One skilled in the art of medical devices would not have been motivated to combine the teachings of Ertel with the teachings of Peterson or Eggers. The applicant submits that claims 1-3 and 6 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

**C. Claims 4 and 5**

Claims 4 and 5 stand rejected as being obvious over Peterson in view of Eggers in view of Official Notice and in further view of Ertel as applied to claim 3, and further in view of “Acute Health Solutions’ DoseWatch to use Multum’s MediSource. The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

The applicant notes that claims 4 and 5 depend from claim 1 which is patentably distinct for at least the reasons stated above. Therefore, the applicant respectfully submits that claims 4 and 5 are also patentably distinct and requests withdrawal of the pending rejection.

**D. Claims 7-20, 23, and 24**

Claims 7-20, 23, and 24 stand rejected as being obvious over Peterson in view of Eggers and in further view of Ertel. The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

The office action states that claims 7-20, 23, and 24 are substantially similar to claims 1-3 and 6 and were rejected on the same basis. Therefore, the applicant respectfully submits that these claims are patentably distinct for at least the reasons stated above and requests withdrawal of the pending rejection.

S/N 09/631,000

PATENT**E. Claims 26-31**

Claims 26-31 stand rejected as being obvious over Peterson in view of Eggers and in further view of Ertel. The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

Claim 26 (and dependent claims 27-31) sets forth batch-down loading the plurality of data items into memory within the pump, and controlling operation of the pump based on one or more of the data items.

The office action admits that "Peterson in view of Eggers does not teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data items." It then cited passages from Ertel for the proposition that "batch downloading data is well known in the medical equipment industry."

However, Ertel does not teach or suggest batch downloading in the medical equipment industry, and in fact, it is not at all related to medical equipment. Rather, it is directed to computerized methods and systems for reviewing the accuracy, completeness, and overall quality of patient data required for hospital payment claims such as for Medicare and other insurers. See, e.g., col. 1, ll. 6-16 and col. 5, ll. 40-58. The teaching is directed to downloading patient data for analysis of insurance payments. It does not teach or suggest downloading operation parameters to medical devices, nor does it teach downloading pump parameters for controlling operation of a medical pump.

Therefore, the applicant respectfully submits that no combination of the cited references would result in batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data items. Even if they did, for the sake of argument and without admission, Ertel is directed to analyzing the quality of hospital claims data for insurance purposes—not medical devices. One skilled in the art of medical devices would not have been motivated to combine the teachings of Ertel with the teachings of Peterson or Eggers. The applicant submits that claims 1-3 and 6 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

S/N 09/631,000

RECEIVED  
CENTRAL FAX CENTER PATENT

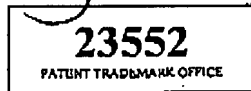
MAY 16 2007

**F. Conclusion**

In view of the foregoing remarks, the applicant respectfully requests withdrawal of the pending rejection and advancement of this application to issuance. The applicant also notes that there may be additional reasons that the claimed invention is patentably distinct from the cited references in addition to those raised in the above remarks. The applicant reserves the right to raise any such reason in the future.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned attorney at (612) 336-4608.

Respectfully submitted,  
MERCHANT & GOULD, P.C.  
3200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
(612) 332-5300

Dated: May 16, 2007By: 

John C. Reich  
Reg. No. 37,703  
JCR/nma